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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifteenth session

SUMMARY RECORD OF THE 42nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 November 1996, at 3 p.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of the United Kingdom of Great Britain and Northern Ireland (Hong Kong) (continued) (E/1994/104/Add.10; E/C.12/Q/UKHK.1; E/C.12/CA/31)

1. At the invitation of the Chairperson, the delegation of the United Kingdom took places at the Committee table.

Implementation of article 8 (continued)

2. Mr. FUNG (United Kingdom), answering a question raised at the previous meeting concerning the remedies available to a worker who believed that he had been the victim of a violation of the provisions of the Employment Ordinance, said that the individual concerned could complain to the Labour Department, which would endeavour to resolve the dispute through conciliation. If those efforts failed, the worker could take his claim to the Labour Tribunal for a decision on the matter.

3. Concerning labour inspections, a total of 168,250 inspections had been carried out in 1995, 21,783 of them dealing with matters relating to occupational safety and 146,437 with observance of the legislation governing terms and conditions of employment.

4. With regard to salaries, hours of work and paid leave, workers not on piece-work were paid weekly or monthly. They were entitled to 11 statutory holidays a year and paid leave (between 7 and 14 days a year, depending on length of service). Overtime was also remunerated.

5. On the question of unemployment, it should be pointed out that women who were no longer looking for work because they had lost all hope of finding a job were included in the unemployment statistics. In that regard, there was nothing to suggest that women were significantly more affected than men by unemployment.

6. The criteria used to determine who should be treated as unemployed were very similar to those defined by the International Labour Organization (ILO). Thus, the unemployment statistics included persons who were looking for a first job and people who had lost all hope of finding work and had stopped looking. Those criteria applied both to residents and immigrants.

7. Regarding legal expenses, there was a Legal Aid Department which provided legal services for persons without sufficient means to ensure that their rights were protected in the courts. Such persons could also request the Duty Lawyer Service, an independent organization administered by the Hong Kong Law Society and Bar Association, to appoint a lawyer to plead their case in court. The Director of the Legal Aid Department was required, under

the terms of the Legal Aid Ordinance, to consider requests for assistance with impartiality. In doing so, he cooperated with the Statutory Legal Aid Services Council, an independent body set up recently by the Government.

8. A member of the Committee had referred at the previous meeting to the case of three Vietnamese refugees who had allegedly been refused medical treatment until they applied for repatriation to Viet Nam. Preliminary inquiries indicated that those allegations were unfounded. However, the Government would pursue its investigations with a view to shedding light on the matter.

9. Mr. GRISSA asked why the proportion of young workers aged 15 to 24 had declined significantly relative to the total labour force between 1986 and 1995.

10. Mr. SIMMA said he was very surprised that unemployment statistics were based on surveys.

11. Mr. FUNG (United Kingdom) said that the trend noted by Mr. Grissa was due to the ageing of the population, the increasing number of students and longer periods of study. He acknowledged that unemployment statistics were not based on a system of registration of the unemployed.

Implementation of article 9

12. Mr. SIMMA asked why the Government had refused in 1995 to institute a mandatory old-age-pension scheme, bearing in mind that only a third of workers now contributed to voluntary provident funds. It further appeared that the social welfare provided for needy persons did not offer them an adequate standard of living.

13. Mrs. BONOAN-DANDAN noted that beneficiaries of the Comprehensive Social Security Assistance (CSSA) Scheme received an allowance of HK$ 7.6 per meal. She questioned whetner that was enough to provide adequate nutrition.

14. Mr. FUNG (United Kingdom) said that the Government had consulted the public on the advisability of instituting a mandatory old-age-pension scheme in 1994. The replies received (6,665) showed that there was far from unanimous support for the proposal. In particular, it had been pointed out that older persons would have to be supported by society as a whole and no longer by their families, and that such a scheme would change people's attitude to work and saving, and would conflict with traditional Chinese values. The scheme had also been described as unfair because pensions would not be directly related to the contributions made. Rather than instituting a mandatory old-age-pension scheme, the Government had therefore opted for a Mandatory Provident Fund (MPF) Scheme, so that the 3 million workers in the Territory would be entitled to a pension.

15. Persons in real need received financial assistance under the CSSA Scheme. CSSA benefits were calculated in such a way as to meet the recipients' basic needs. Over the past five years, benefits paid to a family of five and to a single elderly person had increased in real terms

by 63 per cent and 27 per cent, respectively. A single elderly person currently received HK$ 1,935 per month and also benefited from medical, cultural and other services.

16. The food allowance of HK$ 23 per day was calculated from a basic needs survey of 7,000 households. That was only a minimum allowance and it should be made clear that other forms of assistance were also provided.

17. Mr. SIMMA said that the social welfare payments made to older persons regrettably did not provide them with a decent living. At best, they represented a minimum subsistence income. Moreover, it seemed that for cultural reasons some older persons did not even take advantage of those benefits. During his stay in Hong Kong he had met a 90-year-old man, almost blind, who had been living in a "cage home" for about 30 years. For that man to have qualified for social assistance, his son would have had to declare officially that he was unable to provide for him; he had refused to do so because that would have been contrary to traditional Chinese values. The Government should therefore institute a public information campaign to convince needy people that there was no shame in applying for social assistance.

18. He wished to point out that the Legislative Council had been in favour of a mandatory old-age-pension scheme. To receive an MPF pension, on the other hand, workers would have to contribute for about 30 years. Those close to retirement age would thus never benefit from the MPF scheme. One might also wonder what contributions could be made by a worker earning less than HK$ 4,000 per month.

19. Mrs. BONOAN-DANDAN, returning to the statistics provided by the United Kingdom delegation and to the practice of calculating CSSA benefits on the basis of household spending patterns, asked whether it would not make more sense to employ certain objective criteria to correct absolute values of that kind. The authorities must surely admit that what people spent was not necessarily enough to guarantee them a decent standard of living.

20. Concerning older people, the information supplied by the delegation indicated that 100,000 out of the 850,000 persons aged over 75 received CSSA benefits. Of the remaining 750,000 elderly persons, however, at least 150,000 were known to be living in absolute poverty. What steps had the authorities taken to help them?

21. Mr. AHMED said he had read in the press that the Hong Kong authorities had introduced an anti-subversion bill in the belief that a gap in the law in that regard had to be filled before the transfer of sovereignty. Yet, according to the information presented by the delegation, no one felt that there was a gap in the law relating to social security. Indeed, the delegation seemed to think that people had no reason to complain, even when they were paying rents of US$ 200 per month to live in "cage homes".

22. It would also be interesting to know what would happen to Hong Kong's financial reserves of US$ 20 billion. Would they be transferred to the

People's Republic of China or invested in the United Kingdom? Might it not be worth devoting some of those reserves to improving the social security system in Hong Kong?

23. Mrs. JIMENEZ BUTRAGUEÑO expressed her disappointment at the social security system in Hong Kong, a country that was nevertheless rich and under the influence of the United Kingdom, which had one of the best welfare systems in the world.

24. Mr. GRISSA noted that 1 million people, or a third of the labour force, were covered by the social security system. In what occupational categories did those workers belong? Also, were there any private life assurance schemes and did firms provide insurance coverage for their employees?

25. Mr. Simma's comments on the fact that children had to declare that they were not supporting their parents financially if the latter wished to qualify for social security benefits were extremely important. If the children were reluctant to make such a declaration for cultural reasons, the parents might well find themselves in a very difficult situation. It should be pointed out that, in some countries, children were required to assist their parents financially and could be prosecuted if they failed to do so.

26. Mr. FUNG (United Kingdom) confirmed that children were required to declare that they were unable or unwilling to support their parents financially in order for the latter to be eligible for CSSA benefits. However, 92 per cent of people over 65 years of age received social assistance in one form or another and the Hong Kong authorities did not believe that "Asian cultural values" were an obstacle to the operation of the various social security schemes. Furthermore, the Government had taken a series of measures to inform the public of the existence of such schemes and to simplify the conditions for qualifying for allowances.

27. It was correct that employees earning less than HK$ 4,000 per month did not have to pay MPF contributions but their employers were required to contribute, and consequently those workers would, in fact, be entitled to social security. It should also be pointed out that two thirds of the labour force were under 40 years of age and would benefit from the MPF scheme.

28. Ninety-three per cent of social security recipients were workers in the private sector. There were also a large number of private life assurance and pension schemes, and many undertakings offered a pension scheme for their employees.

29. The figures that the Hong Kong authorities arrived at for CSSA benefits were based not only on household spending patterns but also on the basic needs budget, which was a kind of "price basket" designed to pinpoint the actual needs of the persons concerned. The CSSA rates were, moreover, significantly higher than the theoretical figure obtained from those calculations.

30. As to the reserve funds which concerned Mr. Ahmed, they belonged to Hong Kong and would continue to belong to it after the transfer of sovereignty.

31. The CHAIRPERSON said that he would like to know whether the Joint Declaration or the Basic Law contained any specific provision relating to the use of Hong Kong's reserve funds.

32. Mr. FUNG (United Kingdom) said that, according to article 106, paragraph 2, of the Basic Law, a Chinese law that would be the Constitution of the Hong Kong Special Administrative Region after the transfer of sovereignty, the Hong Kong Special Administrative Region would use its financial revenues exclusively for its own purposes, and they would not be handed over to the Central People's Government.

33. The CHAIRPERSON asked whether there was a provision defining the term "financial revenues" and stating that the reserve funds were to be included in them.

34. Mr. FUNG (United Kingdom) said that, according to the interpretation of the British Government, the Chinese Government and the Hong Kong authorities, the provision he had cited also applied to Hong Kong's reserves.

35. Mr. AHMED said he was pleased that the reserve funds would remain Hong Kong property but wondered, therefore, why the authorities were not using some of them to improve the social security system. Notwithstanding the delegation's optimistic statements, all the non-governmental organizations (NGOs) addressing the Committee said that it was essential to upgrade the social security system, to deal with the problem of substandard housing and to improve living conditions, which were not worthy of such a rich country.

36. Mr. ADEKUOYE said that, according to Oxfam Hong Kong, the Governor of Hong Kong, Mr. Patten, had stated at the opening of the 1995/96 session of the Legislative Council that public expenditure should not exceed 20 per cent of GDP. The number of CSSA beneficiaries had, however, increased substantially. Moreover, the income gap between rich and poor was widening and many people in Hong Kong were living in absolute poverty. He would like more information in that regard.

37. Mr. AHMED said that, according to information transmitted to the Committee by the Hong Kong Christian Institute, Hong Kong's financial reserves stood at US$ 20 billion and GDP per capita at US$ 23,000. Hong Kong had its own tax system, which it would retain after 1 July 1997, and taxes in the Territory were among the lowest in the world. That had the effect of creating an extremely elitist society in which the rich paid almost no taxes. He would welcome further information on the differences between the Hong Kong and United Kingdom tax systems.

38. Mr. CEAUSU said that it was not for the Committee to advise a Government on the policies it should follow concerning taxation, savings and public expenditure. Hong Kong was pursuing a sound fiscal policy that brought prosperity. In all countries there were NGOs and political parties, whether or not represented in the Parliament, which called for more resources to finance social policies. It would be surprising if that were not the case. The Committee should therefore move on without further delay to consider the implementation of the next article of the Covenant.

39. The CHAIRPERSON recalled that States parties made a commitment, under article 2, paragraph 1, of the Covenant, to take steps, to the maximum of their available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant. The Committee had to take that provision into account, particularly as the Hong Kong Government had very substantial financial reserves at its disposal.

40. Mr. SIMMA, agreeing with the Chairperson's observation, added that the Committee was focusing on the situation of the most disadvantaged and vulnerable groups of society. Hong Kong's economic system seemed to work marvellously for persons with a good social and professional standing, but it left many people in distress.

41. Mr. GRISSA asked whether the current legislation required people to provide for needy parents.

42. Mr. ADEKUOYE said that the country analysis on Hong Kong (E/C.12/CA/31) cited the Economist Intelligence Unit's country report for the fourth quarter of 1995 to the effect that unemployment in Hong Kong had continued to rise steadily because manufacturing industries were being relocated to China to reduce labour costs. He would like more information on that point.

43. Mr. FUNG (United Kingdom) said that he was not aware of any Hong Kong policy whereby public expenditure could not exceed 20 per cent of GDP. However, in accordance with the legislation in force and article 107 of Hong Kong's future Constitution, budgetary policy was designed to avoid deficits. Increases in public spending could not exceed the annual growth rate.

44. The Hong Kong tax system was kept very simple in order to limit administrative costs. The rates of taxation were low and priority was given to combating tax evasion. The main sources of revenue were taxes on salaries (levied at a rate of 2 to 20 per cent), profits from commercial transactions and profits of unincoporated businesses (15 per cent), profits of corporations (16.5 per cent) and income from real property (15 per cent). Building repairs and maintenance were subject to a 20 per cent tax rebate. Hong Kong was a tax haven and a major financial centre. Article 108 of Hong Kong's future Constitution maintained the low tax policy.

45. Hong Kong legislation did not impose a liability on anyone to support needy parents. Nor was that the case in China.

46. Mrs. JIMENEZ BUTRAGUEÑO asked whether social contributions were included in the State's tax receipts.

47. Mr. SIMMA, supported by Mr. AHMED, Mr. MARCHAN ROMERO, Mr. WIMER ZAMBRANO, Mr. ALVAREZ VITA and Mrs. JIMENEZ BUTRAGUEÑO, proposed that, in view of the little time remaining, a further meeting should be scheduled the following day to consider the report.

48. Mr. STEEL (United Kingdom) said that he agreed to the proposal but feared that some members of the delegation might not be able to change the date of their return to Hong Kong.

49. The CHAIRPERSON thanked the United Kingdom delegation for agreeing to pursue the dialogue. Consideration of the report would be continued the following afternoon.

Implementation of article 11

50. Mr. AHMED requested clarification of the information in the country analysis concerning Hong Kong to the effect that 41 per cent of Hong Kong's inhabitants lived in heavily subsidized housing and that the Government was seeking to limit access to public housing to those in real need (70,000 families occupying public housing reportedly owned other residential property, which they were said to be leasing).

51. Mr. SIMMA said that anyone visiting Hong Kong was bound to be struck by the intense activity in the building sector. It remained difficult, however, to find accommodation because of the shortage of land on which to build. The land was owned by the Crown, which granted 99-year leases to builders and property owners. According to some sources, the real-estate market was monopolized by seven major companies. Anti-monopoly legislation was therefore called for. The Government could also promote residential construction. He would like to know why it was not employing every possible means to satisfy the demand for housing.

52. Most people had to wait seven years for housing. What was the situation regarding immigrants who were obviously not rich and yet had to turn to the private market? With rents averaging HK$ 250 per square metre, they could for the most part only occupy unused flats or seek accommodation in the so-called temporary housing areas (THAs). The Government nevertheless had the resources to clear those areas and the Hong Kong Governor, Mr. Patten, had at one stage referred to the possibility of doing so. Having visited the THAs himself, he could attest to the fact that housing conditions there were dreadful. It was cynical to affirm (para. 215 of the report) that "cage homes" met a demand.

53. Mr. THAPALIA requested more information about the food allowance for older persons, the number of people living below the poverty line and the proportion of public resources allocated each year for social welfare.

54. Mrs. BONOAN-DANDAN said that she was concerned about the boomerang effect caused by the licensing scheme, which had originally been intended to provide for the safety of the "cage dwellings", as operators reluctant to undertake the necessary work had moved out their tenants, who were now living on the streets. Who would take care of them, since the licensing scheme came under the responsibility of the Home Affairs Department and not the Housing Department? She would appreciate information on the situation in that regard and also concerning the deregulation of rents, which would cause hardship to tenants without substantial financial means.

55. Mr. WIMER ZAMBRANO said that he found it difficult to understand the social and financial objectives of the Hong Kong Government's housing policy. There would appear to be some 70,000 people who owned residential property and yet were occupying public housing.

56. Mr. AHMED inquired whether the United Kingdom and Chinese authorities had come to any agreement on the future of the THAs after June 1997. The Hong Kong Governor had already gone back on his promise to clear them by 1996 and there would still be 13 such areas when Hong Kong reverted to China.

57. Mrs. JIMENEZ BUTRAGUEÑO asked what criteria were applied for the allocation of public housing and whether measures were being taken to combat corruption in that respect.

58. Mrs. AHODIKPE requested details about the situation of homeless persons.

59. Mr. FUNG (United Kingdom) said that the social objectives of Hong Kong's housing policy could be summed up very simply as being to help all households find suitable and affordable accommodation and to encourage home ownership. The Government therefore aimed to provide sufficient land for construction, with amenities and the necessary infrastructure, including hospitals and schools, to subsidize prospective home-buyers meeting certain income requirements, to offer quality public housing at reasonable rents and to facilitate the construction of dwellings by the private sector, while at the same time monitoring the property market and taking steps to curb speculation. Between 1995 and 2001, it was anticipated that 141,000 public rental flats would be built, 235,000 families would become home-owners, with help from the State, and the private sector would put 195,000 new residential units on the market.

60. The measures planned for the transition period took account of the projections concerning immigration (more than 55,000 people a year).

61. A review of the Long-term Housing Strategy had been undertaken for the purpose of determining what changes were needed in current policies and programmes to attain the objectives he had just outlined. The review sought, for example, to make a realistic appraisal, in the light of the demand, of what land should be set aside for housing between 2001 and 2006. The conclusions and recommendations resulting from the review would be made available for public discussion in December 1996.

62. The Government's plans faced obstacles inherent to the geography of the Territory. Hong Kong had a total land area of slightly over 1,000 km², of which only 16 per cent could be used for building or for cultivation. In order to build in the mountains and along the coast, i.e. by forming terraces and reclaiming land from the sea, impact assessments had to be made to ensure that the community's needs were met without disrupting the environment, and that was an exercise which took time.

63. The situation of people accommodated in the THAs was a matter of concern to the authorities, since those people were ineligible for permanent public housing. THAs were under clearance and there were now only 25 - as against 53 in April 1993 - accommodating 32,000 people; 12 of the areas were due to be cleared by the end of 1997. As demolition work progressed, residents were rehoused in the areas which remained. By the end of 1997 it was anticipated that three quarters of the residents would be rehoused and that each would receive at least one offer of rehousing. The Government could not yet clear all the THAs, as some were being used to rehouse various categories of

persons obliged to leave their dwellings because they were unsanitary, a fire risk, unlawfully occupied, or for other reasons. There was, however, a rehabilitation programme which included rat control and renovation of the 13 THAs that would still exist in 1997. Residents would stay in them on what would really be a "temporary" basis only, but the buildings would remain.

64. With regard to older persons, the objective was to enable them to lead an independent and decent life. To that end, the Government was committed to building 22,000 dwellings for the elderly between 1995 and 1999, and 5,100 units had already been completed. The authorities were also helping elderly people by making flats available to them after only a two-year wait if they agreed to share, or by reducing the waiting time for families with elderly members; by giving priority to elderly single persons, who had to wait only four years instead of seven for housing; by encouraging those unable to find accommodation on the market to register on the public housing waiting list; and by setting up information centres - of which there would soon be five - for that type of housing.

65. He recognized that the situation of persons living in bedspace apartments was unacceptable. That, in fact, had been the reason for the enactment of the Bedspace Apartments Ordinance, which prescribed fire and building safety standards and placed such housing under the supervision of the Licensing Authority, whose task it was to ensure compliance with those standards. To prevent the risk of overcrowding, there was a programme of compassionate rehousing and accommodation in hostels. Of the 3,200 bedspace lodgers to be rehoused, there now remained only 2,700.

66. The cost of private-sector accommodation was certainly very high. That was due partly to population pressure and partly to the good health of the economy. To remedy that situation in part, there were also measures to control rents and to guarantee proper building maintenance, and the latter would remain in force even when rents were liberalized.

67. Homeless persons could apply to the Social Welfare Department, which provided a wide range of accommodation and health-care services for them. Those determined to stay outdoors were given blankets and could take refuge in shelters made available for them during cold weather. A number of NGOs served as intermediaries between them and the public authorities. In March 1996, the social welfare services had counted 1,023 homeless persons and endeavoured to persuade them, especially if they were aged or disabled, to accept compassionate housing.

The meeting rose at 6.05 p.m.